

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

ANGELA BROWN,

Plaintiff,

-against-

MERMAID PLAZA ASSOCIATES LLC AND C&J
DONUTS, INC.,

Defendants.

Case No.: 13 Civ 0760

DECLARATION IN SUPPORT

I, Jura Zibas, declare the following under the penalties of perjury pursuant to 28 U.S.C. §1746:

1. I am an attorney for Defendant MERMAID PLAZA ASSOCIATES LLC (“Defendant”) and am familiar with the facts and pleadings herein from my review of the file maintained by our office.
2. This Declaration is submitted in support of Defendants’ motion for summary judgment pursuant to Fed. R. Civ. P. 56.
3. Annexed hereto as **Exhibit A** is a true and correct copy of the Declaration of Scott Domansky in support of Mermaid’s motion for summary judgment.
4. Annexed hereto as **Exhibit B** is a true and correct copy of the Site Plan related to the construction of the shopping center located at 3015 Mermaid Avenue, Brooklyn, New York (the “Property”).
5. Annexed hereto as **Exhibit C** are true and correct copies of the Flood Zone Maps for the area surrounding the Property. These government-maintained flood maps were obtained from <https://msc.fema.gov/portal> (MER000113), <https://www.floodsmart.gov> (MER000114-MER000115), and <https://maps.nyc.gov/hurricane/> (MER000116).

6. Annexed hereto as **Exhibit D** are true and correct copies of photographs and news accounts documenting the flooding and water damage in the area surrounding the Property due to Superstorm Sandy in October 2012.
7. Annexed hereto as **Exhibit E** is a true and correct copy of the Deposition Transcript of Kleo King, dated September 25, 2014.
8. Annexed hereto as **Exhibit F** is a true and correct copy of the Deposition Transcript of Angela Brown, dated May 2, 2014.
9. Annexed hereto as **Exhibit G** is a true and correct copy of Plaintiff's Proposed Settlement Agreement, exchanged August 5, 2013.
10. Annexed hereto as **Exhibit H** is a true and correct copy of Plaintiff's counsel's September 30, 2013 letter to Mermaid's counsel confirming that no inspection of the Property had yet been completed.
11. Annexed hereto as **Exhibit I** is a true and correct copy of Plaintiff's first expert report, prepared by Steven Winters Associates, Inc.
12. Annexed hereto as **Exhibit J** is a true and correct copy of an Invoice, dated April 30, 2014, related to improvements completed on the Property.
13. Annexed hereto as **Exhibit K** is a true and correct copy of Plaintiff's second expert report, prepared by Joel D. Ziev and dated May 13, 2014.
14. Annexed hereto as **Exhibit L** is a true and correct copy of an Invoice, dated July 30, 2014, related to improvements completed on the Property.
15. Annexed hereto as **Exhibit M** is a true and correct copy of Mermaid's first expert report, prepared by Accessibility Services, Inc.
16. Annexed hereto as **Exhibit N** is a true and correct copy of Plaintiff's third expert report, prepared by Jimmy Zuehl of ARCHbility and dated December 1, 2014.

17. Annexed hereto as **Exhibit O** is a true and correct copy of Mermaid's supplemental expert report, prepared by Accessibility Services, Inc. and dated April 14, 2015.
18. Annexed hereto as **Exhibit P** is a true and correct copy of the Deposition Transcript of Dominic Marinelli, dated May 28, 2015.
19. Annexed hereto as **Exhibit Q** is a true and correct copy of a Work Proposal and Budget, dated August 13, 2015, prepared by a third party paving company related to Mermaid's efforts to determine the cost and feasibility of making additional improvements to the Property by re-paving the parking lot.
20. Annexed hereto as **Exhibit R** are true and correct copies of photographs of the Property taken by Mermaid's expert in April 2015. These photographs were exchanged pursuant to Fed. R. Civ. P. 26(b)(4) together with Mermaid's supplemental expert report dated April 14, 2015.
21. Based on the foregoing record, Defendant now moves for summary judgment pursuant to Fed. R. Civ. P. 56.
22. Defendant respectfully refers the Court to its Memorandum of Law and Statement of Undisputed Material Facts Pursuant to Local Civil Rule 56.1 in support of the instant motion.
23. I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
August 21, 2017



Jura C. Zibas